

SECOND SAN DIEGO ETHICS COMMISSION REVIEW OF THE CITY'S Election Campaign Control Ordinance

City Administration Building, City Council Chambers
202 C Street, 12th Floor, San Diego, CA 92101

March 13, 2003, 3:00 p.m.

PROPOSED REVISIONS

Chapter 2: Government

Article 7: Elections, Campaign Finance and Lobbying

Division 29: Election Campaign Control Ordinance

§27.2901 Purpose and Intent

It is the purpose and intent of the *City Council* of the *City* of San Diego in enacting this division to preserve an orderly political forum in which individuals may express themselves effectively; to place realistic and enforceable limits on the amounts of money that may be contributed to political campaigns in municipal *elections*; to prohibit *contributions* by organizations in order to develop a broader base of political efficacy within the community; to limit the use of loans and credit in the financing of municipal *election* campaigns; to provide full and fair enforcement of all the provisions of this division; and to avoid the corruption or the appearance of corruption brought about when *candidates* for elective office accept large campaign contributions. This division is enacted in accordance with the terms of Section 5 of Article XI of the Constitution of the State of California and Articles II and III of the Charter of The *City* of San Diego. The provisions of Section 27.0102 of this article shall not apply to this division.

§27.2902 Citation

This division shall be cited as the San Diego Municipal Election Campaign Control Ordinance.

§27.2903 Definitions

Unless otherwise defined in this section, or the contrary is stated or clearly appears from the context, the definitions and provisions of the Political Reform Act of 1974, Government Code Sections 81000 et seq., as amended, and the definitions in this section, shall govern the interpretation of this division.

Agent means a *person* who acts on behalf or *at the behest* of any other *person*.

At the behest means made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of.

Broadcast station means any *person* who engages in the dissemination of radio communication as defined in the Federal Communications Act of 1934, including any cable television system franchised or otherwise licensed by the *City*.

Candidate has the same meaning as that term is defined in Section 27.0103.

City means the *City* of San Diego.

City Clerk has the same meaning as that term is defined in Section 27.0103.

City Council means the Mayor and Council of the *City* of San Diego vested with all legislative powers of the *City* of San Diego pursuant to Article III, Section 11 of the Charter of the *City* of San Diego

City-wide General Election has the same meaning as that term is defined in Section 27.0103.

City-wide Primary Election has the same meaning as that term is defined in Section 27.0103.

City Official has the same meaning as that term is defined in Section 27.3503.

Committee means any *person* acting, or any combination of two or more *persons* acting jointly, who raise or spend \$1,000 or more in behalf of or in opposition to a *candidate* or for the qualification to the ballot or adoption or rejection of one or more ballot measures. A *committee* shall also mean any nonprofit organization as defined by 26 U.S.C.A. §§501(c)(3) or 26 U.S.C.A. §§501(c)(4) which is established, financed or controlled by any *candidate* for *City* office or by any *City* officer or agent thereof, as well as any such nonprofit organization which is established, financed or controlled by any *candidate* for *City* office or by any *City* officer or agent thereof supporting or opposing a *City* ballot measure, conducting a voter registration drive or conducting a voter turnout drive.

Compensation means any economic consideration for services rendered. This includes reimbursement for expenses.

Contribution

(a) *Contribution* includes:

(1) any *payment*, as defined in Section 27.2903 ; or

- (2) any loan, forgiveness of a loan, *payment* of a loan by a third party, or any enforceable promise to make a *payment*, except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for *political purposes*; or unless the loan is received from a commercial lending institution in the ordinary course of business.
 - (3) forgiveness of a debt or other obligation to pay for goods or services rendered, or reduction of the amount of a debt or other obligation to pay for goods or services rendered, unless it is clear from the circumstances that the amount of the reduction was reasonably based on a good faith dispute. A good faith dispute shall be presumed if the *candidate* or *committee* produces evidence that the *candidate* or *committee* protested the payment of a bill no later than 30 calendar days after the last calendar day of the month in which the goods were delivered or the services were rendered, and evidence that the protest was based on the quality or quantity of goods delivered or services rendered.
 - (4) any *expenditure* made *at the behest* of a *candidate* or *controlled committee* unless full and adequate consideration is received for making the *expenditure*; or
 - (5) any purchase of tickets for events such as dinners, luncheons, rallies and similar fundraising events; or
 - (6) a *candidate's* own money or property used on behalf of his or her candidacy; or
 - (7) any granting of discounts or rebates not extended to the public generally, or any granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all *candidates* for the same office; or
 - (8) any *payment* of *compensation* by any *person* for the services or expenses of any other *person* if such services are rendered or expenses incurred *at the behest* of a *candidate* or *controlled committee* without *payment* of full and adequate consideration; or
 - (9) any transfer of anything of value by a *committee* to another *committee*, unless full and adequate consideration is paid.
- (b) *Contribution* does not include:
- (1) the transfer of anything of value if the transfer is made pursuant to an enforceable promise, to the extent that the amounts have been previously reported as a *contribution*; or

- (2) A payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office, if the total cost of the meeting or fundraising event is \$500 or less, exclusive of the fair rental value of the premises; or
- (3) any *payment* made by an individual for the individual's own *travel expenses* if the *payment* is made voluntarily and without an understanding or agreement that they shall be directly or indirectly repaid to the individual; or
- (4) any *independent expenditure*; or
- (5) Volunteer personal services if rendered without any understanding or agreement that he or she will be repaid.
- (6) A payment made by a *candidate* or *committee* for another candidate to attend the paying *candidate's* or *committee's* fundraiser.
- (7) A payment made by a *candidate* for a communication publicizing his or her endorsement by another *candidate*, provided that the communication does not expressly advocate the nomination or election of the endorsing *candidate* or the defeat of an opponent of the endorsing *candidate*.
- (8) A payment made by a ballot measure committee for a communication in which the ballot measure supported or opposed by the *committee* is endorsed or opposed by a candidate, and the communication does not expressly advocate the nomination or election of the endorsing *candidate* or the defeat of an opponent of the endorsing *candidate*.
- (9) A payment by:
 - (i) A regularly published newspaper, magazine or other periodical of general circulation which routinely carries news, articles, and commentary of general interest for the cost of publishing a news story, commentary or editorial; or
 - (ii) A federally regulated broadcast outlet for the cost of broadcasting a news story, commentary, or editorial.
- (10) A payment by an organization for its regularly published newsletter or periodical, if the circulation is limited to the organization's members, employees, shareholders, other affiliated individuals and those who request or purchase the publication. This exception applies only to the costs regularly incurred in publication and

distribution. Any additional costs incurred are contributions, including, but not limited to, expanded circulation; substantial alterations in size, style, or format; or a change in publication schedule, such as a special edition.

- (11) A payment for a debate or other forum sponsored by a nonpartisan organization in which at least two *candidates* appearing on the ballot for the same elective office were invited to participate.
- (12) A payment for a debate or other forum in which the proponent of a ballot measure and at least one opponent, or their respective representatives, were invited to participate in equal numbers.
- (13) A payment for a debate or other forum sponsored by a political party or affiliated committee in which a majority of the *candidates* for that party's nomination were invited to participate.
- (14) A payment made by a bona fide service, social, business, trade, union or professional organization or group for reasonable overhead expenses associated with the organization's regularly scheduled meeting at which a *candidate* or an individual representing either side of a ballot measure speaks, if the organization pays no additional costs in connection with the speaker's attendance.
- (15) A payment received by, directed by, or made at the behest of a *candidate* for personal purposes. [NOTE: Such payments may constitute gifts, income, or honoraria, and as such may be limited or prohibited, under other provisions of law]
- (16) A payment made by a *candidate* for a communication in support of or opposition to a ballot measure, if the communication features the endorsing candidate or clearly identifies him or her as the sponsor of the communication. [NOTE: this exception does not include a monetary contribution from a candidate or his or her controlled committee to a ballot measure committee.]
- (17) A payment by a sponsoring organization for the establishment and administration of a sponsored committee, provided such payments are reported. Any monetary payment made under this subdivision to the sponsored committee shall be made by separate instrument. A "sponsoring organization" may be any person except a candidate or other individual. "Establishment and administration" means the cost of office space, phones, salaries, utilities, supplies, legal and accounting fees, and other expenses incurred in setting up and running a sponsored committee.
- (18) A payment made for *internal communications*.

- (19) A contribution made at the behest of a candidate for a different candidate or to a committee not controlled by the behesting candidate is not a contribution to the behesting candidate.

Controlled committee means any *committee* controlled directly or indirectly by a *candidate* or which acts jointly with a *candidate* or *controlled committee* in connection with the making of *expenditures*. A *candidate* controls a *committee* if the *candidate*, the *candidate's agent* or any other *committee* controlled by the *candidate* has a significant influence on the actions or decisions of the *committee*.

Council has the same meaning as that term is defined in Section 27.0103.

Direct contribution means any money given by an individual to a *general purpose recipient committee* for the express purpose of supporting or opposing one or more *candidates* for elective *City* office.

District General Election has the same meaning as that term is defined in Section 27.0103.

District Primary Election has the same meaning as that term is defined in Section 27.0103.

Election means a *District* or *City-wide Primary Election*, a *District* or *City-wide General Election*, or a *Special Election* or *Special Run-off Election* held in the *City*, but does not include *elections* of the San Diego Unified School District. For the purpose of this division, a *District* or *City-wide Primary Election*, a *District* or *City-wide General Election*, and a *Special Election* or *Special Run-off Election*, are single and separate *elections*.

Elective Office has the same meaning as that term is defined in Section 27.0103, but does not include the office of a member of the governing board of the San Diego Unified School District.

Enforcement Authority means the City of San Diego Ethics Commission. Nothing in this article limits the authority of the City Attorney, any law enforcement agency, or any prosecuting attorney to enforce the provisions of this Article under any circumstances where the City Attorney, law enforcement agency, or prosecuting attorney otherwise has lawful authority to do so.

Expenditure means a *payment*, a forgiveness of a loan, a *payment* of a loan by a third party, or an enforceable promise to make a *payment*, unless it is clear from the circumstances that it is not made for *political purposes*. An *expenditure* is made on the date the *payment* is made or on the date consideration, if any, is received, whichever is earlier. A payment for *internal communications* is not an *expenditure*.

Extended family means an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person.

General purpose recipient committee means any *person*, entity, or organization that receives contributions totaling \$1,000 or more during a calendar year to support or oppose various candidates or measures. This type of committee is not controlled by a *candidate*.

Gift has the same meaning as that set forth in California Government Code section 82028.

Independent expenditure means any *expenditure* made by any *person* in connection with a communication that:

- (a) expressly supports or opposes the nomination, *election*, defeat or recall of a clearly identified *candidate*; or
- (b) expressly supports or opposes the qualification for the ballot, adoption or defeat of a clearly identified *measure*; or
- (c) taken as a whole and in context, unambiguously urges a particular result in a *City election*.

An *expenditure* that is made to or *at the behest* of a *candidate* or a *controlled committee* is not an *independent expenditure*.

Indirect contribution means a *general purpose recipient committee's* allocation, or a *general purpose recipient committee's* sponsor's allocation, of any money it receives from an individual if the allocation is made for the purpose of supporting or opposing one or more *candidates* for elective *City* office.

Internal communication means communications directed solely to members, employees or shareholders of an organization, including communications to members of any political party, for the purpose of supporting or opposing a *candidate* or *candidates* for elective office, specifically not to include communication activities used in connection with broadcasting, newspaper, billboard or similar type of general public communication. The meaning of *internal communication* is intended to be consistent with the definitions contained in California Government Code section 85312 and title 2, section 18531.7 of the California Code of Regulations. Any amendments made to these authorities shall be deemed to be an amendment to the language of this definition.

Mass mailing means over two hundred substantially similar pieces of campaign literature sent within a single calendar month.

Measure has the same meaning as that term is defined in Section 27.0103 but does not include a recall *election*.

Payment means any payment, reimbursement, distribution, transfer, loan, advance, deposit, *gift* or other rendering of money, property, services or any other thing of value, whether tangible or intangible.

Person means any individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, *committee*, labor union, or any other organization or group of *persons* acting in concert.

Petition has the same meaning as that term is defined in Section 27.0103.

Political purpose means the purpose of influencing or attempting to influence the action of the *voters* for or against the nomination, *election*, defeat or recall of any *candidate* or *elective officer*, for or against the qualification of a *City measure* for the ballot, or for or against the adoption or defeat of any *City measure*.

Primarily formed recipient committee means a *person*, entity, or organization that receives contributions totaling \$1,000 or more during a calendar year to support or oppose a single *candidate* for a *City* election. This type of committee is not controlled by a candidate.

Shared management means an organizational structure in which there is common management and control of two or more *general purpose recipient committees*. In determining whether there is common management and control, consideration shall be given to the following factors:

- (1) The same *person* or substantially the same *person* manages the operation of the different *general purpose recipient committees*;
- (2) There are common or commingled funds or assets;
- (3) The *general purpose recipient committees* share the use of the same offices or employees, or otherwise share activities, resources, or personnel on a regular basis;
- (4) There is otherwise a regular and close working relationship between the *general purpose recipient committees*.

Special Election means any *election* other than a *District* or *City-wide Primary Election*, or *District* or *City-wide General Election*. It includes all *elections* to consider ballot *measures* as well as *elections* to fill vacancies in *elective office* and recall *elections*.

Special Run-off Election means any *election* that is required by the failure of any *candidate* to receive a majority of votes cast at a *Special Election*.

Travel expenses has the same meaning as that term is defined in section 27.4002.

Treasurer or *Committee treasurer* means the individual designated to perform the duties of *treasurer* under Section 27.2912.

Voter has the same meaning as that term is defined in section 27.0103.

Vendor means any *person* who delivers goods or renders services to a *candidate* or *committee*, unless it is clear from the circumstances that they were not made for *political purposes*.

§27.2910 Candidate and Committee Status; Duration

- (a) For purposes of this division, any individual who is a *candidate* retains the status of *candidate* until that status is terminated either:
 - (1) pursuant to California Government Code section 84214; or
 - (2) pursuant to Sections 27.2971(c) or 27.2971(d) of this Municipal Code.
- (b) For purposes of this division, any *committee* retains the status of *committee* until that status is terminated pursuant to California Government Code section 84214.

§27.2911 Recall Elections

For purposes of this division, a recall *election* begins on the date a notice of intention to circulate a recall *petition* is published pursuant to the recall provisions of this article; and, a recall *election* occurs whether *voters* cast ballots pertaining to the recall or not.

§27.2915 Duty to Have Campaign Treasurer

Every *candidate* and every *committee* shall have a *treasurer*. A *candidate* may designate himself or herself as *treasurer*. Only an individual may be designated as a *treasurer*.

§27.2916 Authority of Treasurer

It is unlawful for any *expenditure* to be made by or on behalf of a *committee* without the express authorization of the *treasurer*. It is unlawful for any *contribution* to be accepted by a *committee* or any *expenditure* to be made on behalf of a *committee* at a time when the office of *treasurer* is vacant.

§27.2917 Campaign Contribution Checking Account for Controlled Committees

- (a) Every *controlled committee* that accepts *contributions* shall establish one campaign *contribution* checking account at an office of a bank or other financial institution providing checking account services located in the *City* of San Diego.
- (b) Upon opening of an account, the name of the bank or other financial institution and account number thereof shall be filed with the *City Clerk* on the same forms and in the time and manner required by California Government Code sections 81000 *et seq.*
- (c) Upon opening of an account, all *contributions* of money or checks, or anything of value converted by such *controlled committee* to money or a check shall be placed in the *controlled committee's* checking account within twenty business days.
- (d) *Contributions* must include the information required by California Government Code section 84211. Any information that has not been provided shall be requested, in writing, by the campaign *treasurer* within ten business *days* of receipt of the *contribution*. No *contribution* shall be deposited to a campaign *contribution* checking account without the receipt by the *candidate* of that information.
- (e) Any *contribution* not deposited within twenty business *days* shall be returned to the contributor as soon as possible after the twentieth business *day*, but no later than twenty-five business *days* after receipt of the *contribution*.

§27.2918 Credit Card Accounts

A credit card account may be established for a *controlled committee's* campaign contribution checking account. It is unlawful for any such credit card account to have, at any one point in time, a balance in excess of \$10,000. Payment of charges that have accrued on a credit card account must be made only from the campaign contribution checking account. A candidate or officeholder may designate an existing personal credit card with a zero balance to be his or her campaign bank account credit card, but personal expenses may not, thereafter, be charged to that account until after the election. Once all campaign expenses have been paid, the account may be re-designated to a personal credit account.

§27.2919 Disbursements

It is unlawful for any funds to be disbursed from a campaign *contribution* checking account established pursuant to Section 27.2921 unless such disbursement is done by check signed by the *candidate* or by the *candidate's* campaign *treasurer* or designated *agent* of the campaign *treasurer*.

§27.2920 Petty Cash Fund

A petty cash fund may be established for each *controlled committee* bank account under the following conditions:

- (a) No more than \$100 may be held in the petty cash fund at any one time.
- (b) No *expenditure* that totals \$100 or more may be made from the petty cash fund.
- (c) *Expenditures* from a petty cash fund are deemed to be *expenditures* from the campaign bank account.

§27.2921 Liquidation of Accounts

In the event that *payment* has been made for all goods and services furnished in connection with the campaign of a *candidate*, a *controlled committee* checking account may be liquidated by paying the remaining balance in the checking account in any lawful manner pursuant to section 27.2922.

§27.2922 Disposal of Surplus Campaign Funds

Within 90 days of withdrawal, defeat, or election to *City* office, campaign funds under the control of a *candidate* shall be considered surplus campaign funds, and shall be used only for the following purposes:

- (a) To pay outstanding campaign debts;
- (b) To repay contributions;
- (c) To make a donation to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the *candidate*, any member of his or her immediate family, or his or her campaign treasurer.
- (d) To make a contribution to a political party committee, provided the campaign funds are not used to support or oppose candidates for elective office. However, the campaign funds may be used by a political party committee to conduct partisan voter registration, partisan get-out-the-vote activities, and slate mailers.
- (e) To make a contribution to support or oppose any candidate for federal office, any candidate for elective office in a state other than California, or any ballot measure.
- (f) To pay for professional services reasonably required by the *candidate* or *committee* to assist in the performance of its administrative functions, including payment for attorney's fees for litigation that arises directly out of a *candidate's* activities or his or her status as a *candidate*, including, but not limited to, an

action to enjoin defamation, defense of an action brought of a violation of state or local campaign, disclosure, or election laws, and an action from an election contest or recount.

§27.2923 Mass Mailings

- (a) It is unlawful for any *candidate* or *committee* participating in a *City* election to send a *mass mailing* unless the name, street address, and city of the *candidate* or *committee* are shown on the outside of each piece of mail in the mass mailing
- (b) If the sender of a mass mailing is a *controlled committee*, the name of the *candidate* controlling the *committee* shall be included in addition to the information required by subsection (a).

§27.2925 Accounting

- (a) In addition to any other requirements of this division, every *candidate* or *committee* that accepts *contributions* for a *City* election shall maintain a record of each of the following:
 - (1) any *contribution* offered to and refused by the *candidate* or *committee*; and,
 - (2) any *contribution* received by the *candidate* or *committee* and returned to the contributor; and,
 - (3) any *contribution* received by the *candidate* or *committee* and deposited into the campaign *contribution* checking account; and,
 - (4) any disbursement made from the campaign *contribution* checking account.
- (b) The records required by Section 27.2925(a) shall include, but not be limited to, all of the following:
 - (1) the name and address of the contributor; and
 - (2) the amount of the *contribution*, and the date on which it was received or offered; and,
 - (3) if the *contribution* is made by check, a legible photocopy of the check; and,
 - (4) if the *contribution* offered or received consists of cash, an indication that cash was offered or received, and a legible photocopy of the bank deposit slip indicating that the cash *contribution* was deposited into the campaign *contribution* checking account; and,

- (5) legible photocopies or originals of all bank records pertaining to the campaign *contribution* checking account; and,
 - (6) if a *contribution* is made by the *candidate* to his or her own campaign, a statement disclosing the source of the funds; and,
 - (7) if a *contribution* is of something other than money, a description of what was contributed, a reasonable good faith estimate of the monetary value of the *contribution*, and the basis for the estimate; and,
 - (8) for each disbursement made from or check drawn on the campaign *contribution* checking account, the canceled check (if requested), the bank statement showing the disbursement, the name of the payee of each check, an itemized record of the goods or services for which each check is issued or disbursement made, and legible photocopies or originals of any invoices, bills, or other supporting documents for which funds were disbursed.
- (c) The records required by Section 27.2925 (a) and (b) shall be kept by the *candidate* or *committee treasurer* establishing the account for a period of four years following the date that the campaign statement to which they relate is filed.
- (d) Each *candidate* and *committee* shall deliver, on demand, to any public officer having authority to enforce this division a written authorization permitting the officer to have access to all records pertaining to the campaign *contribution* checking account.
- (e) Each *candidate* and *committee* shall, on demand, make available to any public officer having authority to enforce this division all records required by this division to be maintained by the *candidate* or *committee*.

§27.2930 Base Level of Campaign Statements and Disclosures

Each *candidate* and *committee* shall file campaign statements in the time and manner required by California Government Code sections 81000 *et seq.* with the following additional requirements:

- (a) All *candidate* and *committee* campaign disclosure statements that are generated from the output of a computer software program shall be generated with the names of all contributors listed in alphabetical order by last name. Treasurers for any *committee* that files hand written campaign disclosure statements shall make reasonable good faith efforts to list the names of all contributors in alphabetical order by last name.

- (b) The specific date when goods are delivered or services are rendered by a *vendor* and the specific date of receipt by the *committee* of a bill or invoice from the *vendor* shall be disclosed in the category “Description of Payment” on any schedule requiring the disclosure of “Accrued Expenses.”
- (c) The specific date when a *committee* pays a *vendor* for goods or services shall be disclosed in the category “Amount Paid” on any schedule requiring the disclosure of “Payments Made.”
- (d) All *candidates* and *committees* participating in primary and general *City* elections for the same election cycle shall file separate a campaign disclosure statement for each election. For purposes of complying with this subsection, all *expenditures* made or incurred prior to the date of the primary election shall be disclosed on the campaign disclosure statement for the primary election.
- (e) It is unlawful to fail to comply with the disclosure requirements of California Government Code sections 81000 *et seq.* and the additional requirements of this section.

§27.2931 Online Disclosure of Campaign Statements

- (a) It is the intent of the *City* to implement an electronic filing system that facilitates the disclosure of financial activities engaged in by *candidates* and *committees* participating in *City* elections. When a practical and financially feasible electronic filing system has been implemented by the *City Clerk*, the provisions of this section shall be in effect.
- (b) Each *candidate* and *committee* that has received *contributions* or made *expenditures* of \$10,000 or more in connection with a *City* election shall use the *City Clerk*’s electronic filing system to file online each campaign statement required by section 27.2930. Once a *candidate* or *committee* is required to file campaign statements online, that *candidate* or *committee* shall continue to file statements online until the *committee* has officially terminated.
- (c) Any *candidate* or *committee* not required to file online pursuant to subsection (b) may do so voluntarily.
- (d) The beginning date for calculating the \$10,000 threshold shall be determined when the *City Clerk* implements its electronic filing system.
- (e) All *candidates* and *committees* required to file their campaign statements online shall continue to file a paper copy of each campaign statement, as required by the California Political Reform Act and this division, until the person is no longer required to file campaign statements with the *City Clerk*. The paper copy shall continue to be the original campaign statement for audit and other legal purposes.

- (f) In addition to any late filing penalties that may be imposed for a late filing of a paper copy pursuant to the California Political Reform Act or this division, any person who fails to comply with the online filing requirement of this section will, in addition, be subject to an additional late filing penalty of \$25 per day after the deadline for the late filing of the online copy.
- (g) The information contained on a campaign statement filed online shall be the same as that contained on the paper copy of the same statement that is filed with the *City Clerk*.

§27.2932 Supplemental Campaign Disclosures

The following supplemental disclosure requirements regarding *internal communications* and *expenditures* are intended to provide sufficient notice to the *City Clerk* and to all *candidates* for the same office that they are approaching and exceeding thresholds set forth in this division that could trigger the lifting of voluntary *expenditure* limitations. The disclosures identified in this section are required only with regard to *City* races in which one or more candidates are participating in the Voluntary Expenditure Ceiling program set forth in sections 27.2970 to 27.2978.

- (a) Any *person* that makes, or incurs an obligation to make, *payments* for *internal communications* in support of or opposition to a *candidate* for elective *City* office shall file a supplemental campaign disclosure form with the *City Clerk* by personal delivery or fax within 24 hours each time *payments* totaling \$1,000 or more for *internal communications* are made or incurred. If multiple *payments* are made or incurred at the same time with respect to a single *internal communication*, those *payments* may be disclosed on a single notice.
- (b) Any *committee* that makes, or incurs an obligation to make, *independent expenditures* in support of or opposition to a *candidate* for *City Council* shall file a supplemental campaign disclosure form with the *City Clerk* by personal delivery or fax within 24 hours each time one or more such *independent expenditures* totaling \$1,000 or more are made or incurred. If multiple *payments* are made or incurred at the same time with respect to a single *independent expenditure*, those *payments* may be disclosed on a single notice.
- (c) The notice required by subsections (a) and (b) shall contain the following information with respect to each *payment*:
 - (1) The candidate who was supported or opposed by the *internal communication* or *independent expenditure*;
 - (2) the date and amount of the *payment*;
 - (3) a description of the type of *internal communication* or *independent expenditure* for which the *payment* was made or incurred;

- (4) the name and address of the *person* making the *payment*; and
- (5) the name and address of the payee.
- (d) Any *candidate* for elective *City* office, other than those *candidates* who are participating in the Voluntary Expenditure Ceiling program, who makes, or incurs an obligation to make, *expenditures* in support of his or her candidacy that exceed the *expenditure* ceiling set forth in section 27.2971 shall notify the *City Clerk* by personal delivery, fax, or e-mail within 24 hours of exceeding the expenditure ceiling.

§27.2933 Lawful Use of Campaign Funds by a Committee

Uses of campaign funds held by any *committee* formed in accordance with this Division shall be governed by California Government Code sections 81000, *et seq.* It is unlawful to use campaign funds other than in accordance with requirements of California Government Code sections 81000, *et seq.*

§27.2935 Contribution Limitations

- (a) It is unlawful for an individual to make to any *candidate* or *committee* supporting or opposing a *candidate*, or for any *candidate* or *committee* supporting or opposing a *candidate* to accept, a *contribution* that would cause the total amount contributed by that individual in support of the *candidate* to exceed \$250 if the *candidate* is seeking *City Council* district office, or to exceed \$300 if the candidate is seeking the office of the Mayor or the office of the City Attorney, for any single *election*.
- (b) Nothing in this section is intended to limit the amount of his or her own money or property that a *candidate* may contribute to, including loan to, or expend on behalf of the *candidate's* own campaign.
- (c) The provisions of this section are not intended to prohibit an individual from making *contributions* for the primary and general *elections* at the same time.
- (d) The *contribution* limits imposed by this section do not apply to *general purpose recipient committees*, which are discussed in section 27.2936.

27.2936 Contribution Limitations for General Purpose Recipient Committees

- (a) Individuals may support or oppose the candidacy of those seeking elective *City* office by making *contributions* to *general purpose recipient committees*. Such *contributions* shall be in the form of either a *direct contribution* or an *indirect contribution*.

- (b) It is unlawful for any individual to make, or any *general purpose recipient committee* to accept, a *direct contribution* that would cause the total amount contributed by that individual to the *general purpose recipient committee* for purposes of supporting or opposing one or more *candidates* for elective *City* office to exceed \$250 in a single calendar year.
- (c) It is unlawful for any *general purpose recipient committee* or any sponsor of a *general purpose recipient committee*, to allocate an *indirect contribution* that would cause the total amount contributed by that individual to the *general purpose recipient committee* for purposes of supporting or opposing one or more *candidates* for elective *City* office to exceed \$250 in a single calendar year.
- (d) It is unlawful for any individual to make *direct contributions* or *indirect contributions* to multiple *general purpose recipient committees* with *shared management* if such *contributions* aggregate in excess of \$250 in a single calendar year.
- (e) It is unlawful for a *general purpose recipient committee* to accept a *direct contribution* from a *person* other than an individual.
- (f) It is unlawful for a *general purpose recipient committee* or the sponsor of a *general purpose recipient committee* to allocate an *indirect contribution* from a *person* other than an individual.
- (g) This section shall not be construed to limit the amount of money that an individual may give to a *general purpose recipient committee* in the form of dues, donations, fees, or other forms of monetary transactions, including *contributions* to support or oppose the candidacies of those seeking elective office outside the *City*.
- (h) In addition to reporting all other *contributions* received, a *general purpose recipient committee* that accepts *indirect contributions* shall disclose those *indirect contributions* by identifying on its campaign statement the date of the allocation as the “date received,” the source of the *indirect contribution* as if he or she was making a *direct contribution*, and the fact that the *contribution* was an “indirect contribution.”

§27.2940 Restrictions on Time Period of Contributions

- (a) It is unlawful for any *candidate* or *controlled committee* seeking *election* to a *City Council* district office to accept *contributions* prior to the nine months preceding that *election*, and it is unlawful for any *candidate* or *controlled committee* seeking *election* to the office of the Mayor or City Attorney to accept *contributions* prior to the twelve months preceding that *election*.

- (b) It is unlawful for any *candidate* or *controlled committee* for *City* office to accept *contributions* more than 90 days after the withdrawal, defeat, or election to office. *Contributions* immediately following such a withdrawal, defeat, or election and up to 90 days after that date, may be accepted only by a *candidate* or *controlled committee* with outstanding debts or loans, and shall be used only to pay the outstanding debts or loans owed by the *candidate* or *controlled committee*.
- (c) *Contributions* pursuant to subsections (a) and (b) of this provision shall be considered *contributions* raised for the *election* in which the bills and debts were incurred and shall be subject to the *contribution* limits of that *election*.

§27.2945 Loans

- (a) It is unlawful for any *candidate* to personally make outstanding loans to his or her campaign or *controlled committee* that total at any one point in time more than \$15,000 if the *candidate* is seeking *City Council* district office, or \$25,000 if the candidate is seeking the office of Mayor or City Attorney. Nothing in this section shall prohibit a *candidate* from making unlimited *contributions* to his or her own campaign.
- (b) It is unlawful for any *candidate* who makes a loan to his or her *committee* from his or her personal funds to charge a rate of interest greater than the terms available to members of the public charged by a commercial lending institution in the regular course of business.
- (c) Every *candidate* and *committee* shall disclose loans in the same time and manner required by California Government Code sections 84211, 84216, and 84216.5.

§27.2946 Family Contributions

- (a) *Contributions* by a husband and wife shall not be aggregated.
- (b) *Contributions* by children under 18, except in the case of an emancipated minor, shall be treated as *contributions* attributed equally to each parent or guardian.

§27.2948 Prohibition of Anonymous Contributions

It is unlawful for any *candidate* or *committee* to use more than two hundred dollars (\$200) in total anonymous *contributions* with respect to a single *election*. To the extent that a *candidate* or *committee* accepts anonymous *contributions* in excess of two hundred dollars (\$200), the excess shall be paid promptly, from available campaign funds, if any, to the *City Clerk* and made payable to the *City Treasurer* for deposit in the General Fund of the *City*.

§27.2949 Prohibition of Contributions in the Name of Another Person

- (a) It is unlawful for any *person* to make directly or indirectly a *contribution* in a name other than the name by which he or she or they are identified for legal purposes.
- (b) It is unlawful for any *person* to make directly or indirectly a *contribution* in the name of another *person*.
- (c) It is unlawful for any *person* to make directly or indirectly a *contribution* in his or her or their name of:
 - (1) anything belonging to another *person*; or
 - (2) anything received from another *person* on the condition that it be used as a *contribution*.
- (d) When it is discovered by the campaign *treasurer* that a *contribution* has been received and deposited in violation of Section 27.2925, the campaign *treasurer* shall pay promptly from available campaign funds, if any, the amount received in violation of this section. That amount shall be delivered to the *City Clerk* and made payable to the *City Treasurer* for deposit in the General Fund of the *City*.

§27.2950 Prohibitions and Limits on Contributions From Organizations

- (a) It is unlawful for a *candidate*, a *candidate's controlled committee*, or any *treasurer* thereof, or other *person* acting on behalf of any *candidate*, *candidate's controlled committee*, to accept a *contribution* from any *person* other than an individual.
- (b) It is unlawful for a *person* other than an individual to make a *contribution* to any *candidate* or any *candidate's controlled committee*.
- (c) It is unlawful for any *primarily formed recipient committee* to accept from any *person* other than an individual, or for any *person* other than an individual to make, a *contribution* supporting or opposing a *candidate* for elective *City* office.
- (d) The prohibition in subsection (c) shall not be construed to prevent a *person* other than an individual from making a *contribution* to a *primarily formed recipient committee* that is organized solely for the purpose of supporting or opposing the qualification of a *City measure* for the ballot, or the adoption or defeat of a *City measure*, and the *primarily formed recipient committee* pursues no other purpose.
- (e) This section shall not be construed to prevent a *general purpose recipient committee* from accepting *contributions* from *persons* other than individuals, but shall be construed to prevent a *general purpose recipient committee* or the

sponsor of a *general purpose recipient committee* from accepting *direct contributions*, or allocating *indirect contributions*, from a *person* other than an individual for the purpose of supporting or opposing one or more *candidates* for elective *City* office.

- (f) For purposes of Section 27.2950(d), a recall *election* is not an *election* on a *City measure*.

§27.2951 Obligation to Return Contributions

- (a) If a *candidate, committee, or committee treasurer* is offered a *contribution* the acceptance of which would constitute a violation of this division, the *candidate, committee or committee treasurer* shall refuse the offer.
- (b) If a *candidate, committee, or committee treasurer* receives a monetary *contribution* the acceptance of which would constitute a violation of this division, neither the *candidate, committee, nor committee treasurer* shall be subject to any penalty for receipt of that *contribution* if the *candidate, committee, or committee treasurer*:
 - (1) does not deposit the *contribution* into the campaign *contribution* checking account; and,
 - (2) returns the *contribution* within twenty business *days* of the calendar *day* the *contribution* was received.
- (c) If a *candidate, committee, or committee treasurer* deposits into the campaign *contribution* checking account a monetary *contribution* the acceptance of which constitutes a violation of this division, the *candidate, committee, or committee treasurer* shall within ten calendar *days* of the date of the *candidate's, committee's or committee treasurer's* discovery of the violation provide in writing to the *City Clerk* all facts pertaining to the *contribution*, including but not limited to: (1) a copy of any check(s), draft(s), or other instrument(s) by which the *contribution* was made; and (2) if made in cash, a report of the amount and denominations of currency tendered and a legible photocopy of the bank deposit slip; and (3) if by wire or other electronic fund transfer, a legible printout or photocopy of the transaction; and (4) a report of the means of tender, delivery or confirmation of the *contribution* (e.g. U.S. Postal Service or private mail, courier service, in *person*, etc.); and (5) a report of the full name and street address of the contributor.
- (d) The *candidate or committee treasurer* shall promptly deliver from available funds, if any, an amount equal to any monetary *contribution* constituting a violation of this division that is deposited into the campaign *contribution* checking account to the *City Clerk* and made payable to the *City Treasurer*. The *City Treasurer* shall deposit any *contribution* or equivalent amount he or she receives under Section 27.2951 into the *City's* General Fund.

§27.2952 Campaign Expenditures Uncontrolled by Candidate or Committee

Any person who makes *independent expenditures* for or against a *City candidate* shall indicate clearly on any material published, displayed, or broadcast that the *independent expenditure* was not authorized or paid for by a *City candidate*.

§27.2960 Extensions of Vendor Credit

- (a) *Vendors* may extend credit to *candidates* or *committees* in the ordinary course of business in the same manner as extended to *persons* for other than *political purposes*.
- (b) For leases or rentals of one month or more, *candidates* or *committees* that rent or lease real or personal property for *political purposes* shall pay at least one month's rent in advance of taking possession. Thereafter, *candidates* or *committees* shall pay rent in advance.
- (c) For leases or rentals of less than one month, *candidates* or *committees* that rent or lease real or personal property for *political purposes* shall pay in full in advance.
- (d) A *candidate* or *committee* that accepts goods or services for *political purposes* on credit under Section 27.2960(a), shall pay for those goods or services in full no later than ninety calendar *days* after receipt of a bill or invoice and in no event later than ninety calendar *days* after the last calendar *day* of the month in which the goods were delivered or the services were rendered, unless it is clear from the circumstances that the failure to pay is reasonably based on a good faith dispute. For purposes of this subsection, a good faith dispute shall be presumed if the *candidate* or *committee* produces the following:
 - (1) evidence that the *candidate* or *committee* protested the payment of a bill no later than 30 calendar days after the last calendar day of the month in which the goods were delivered or the services were rendered; and,
 - (2) evidence that the protest was based on the quality or quantity of goods delivered or services rendered.

§27.2961 Continuing Violations

A *candidate* or *committee treasurer* violates Section 27.2960(b), (c), or (d) whenever the *candidate* or *committee treasurer* fails to make *payment* in full for rent or for goods or services within the time periods set forth in Section 27.2960. Each and every calendar *day* any obligation remains partially or wholly unpaid after the time periods set forth in Section 27.2960 constitutes a separate violation.

§27.2962 Suppliers of Goods and Services — Disclosure of Records Required

It is unlawful for any *person* who supplies goods or services to a *candidate* or *committee* for use in connection with the campaign of any *candidate* for elective *City* office or for or against any *City measure* to knowingly refuse to divulge or disclose to the *Enforcement Authority* that *person's* record of any *expenditures* made by the *candidate* or *committee* as *payment* for such goods or services.

§27.2965 Legal Defense Fund

- (a) Every elected *City Official* and every *candidate* for elective *City* office shall be permitted to establish and maintain one legal defense fund.
- (b) In addition to *contributions* received in connection with a *City election*, any elected *City Official* or *candidate* for elective *City* office may receive *contributions* from individuals for a legal defense fund, and may use such *contributions* solely to defray attorney's fees and other legal costs incurred in the *City Official's* or *candidate's* legal defense to one or more civil or criminal court cases, or administrative proceedings, arising directly out of the conduct of an *election* campaign, the electoral process, or the performance of the *City Official's* governmental activities and duties.
- (c) Prior to establishing any fund pursuant to this section, and prior to soliciting or accepting any *contributions* for such fund, the *City Official* or *candidate* shall:
 - (1) file with the *City Clerk* a "Statement of Purpose" identifying the specific civil or criminal court case, or administrative proceedings, for which the legal defense fund is established; and,
 - (2) establish a *controlled committee* for the account by filing a statement of organization pursuant to Government Code section 84101.
- (d) The legal defense fund shall be named: "The (name of the *City Official* or *candidate*) Legal Defense Fund." The *controlled committee* shall be named "Committee for the Legal Defense of (name of the *City Official* or *candidate*)."
- (e) It is unlawful for any individual to make, or any *City Official* or *candidate* to solicit or accept from any individual, *contributions* totaling more than \$250 during a *City* fiscal year to a legal defense fund in connection with any single court case or administrative proceeding identified in the "Statement of Purpose."
- (f) It is unlawful for any *City Official* or *candidate* to use any portion of a legal defense fund to pay a fine, sanction, or other type of penalty.
- (g) The *controlled committee* shall file quarterly campaign statements as follows:

- (1) No later than April 30 for the period of January 1 through March 31.
 - (2) No later than July 31 for the period of April 1 through June 30.
 - (3) No later than October 31 for the period of July 1 through September 30.
 - (4) No later than January 31 for the period of October 1 through December 31.
- (h) It is unlawful for any individual to make a *contribution* to a legal defense fund without accompanying the *contribution* with a disclosure form identifying the particulars of all matters, if any, that such individual has before the board, commission, department, or agency of which the *City Official* or *candidate* maintaining the legal defense fund is a member or employee. When filing the quarterly campaign statements required by subsection (g), the *City Official* or *candidate* maintaining the legal defense fund shall attach a copy of each disclosure form received pursuant to this subsection.
- (i) It is unlawful for any legal defense funds remaining after any court case or proceeding in connection with which the funds were raised to be transferred to any other fund or *committee*. Within six months after final conclusion of the lawsuit or proceeding and the payment of all debts incurred in connection with that lawsuit or proceeding, any surplus legal defense funds may be used in connection with any other lawsuit or administrative proceeding brought against the *City Official* or *candidate* in connection with the matter for which the fund was established, or may be returned to the contributors on a pro rata basis or given to the *City's* General Fund.
- (j) An individual's *contributions* to a legal defense fund are not subject to the campaign *contribution* limits set forth in Municipal Code section 27.2935.
- (k) Except as set forth in subsection 27.2922(f), this section shall constitute the sole authority for soliciting or accepting *contributions* for legal costs of the defense of an action relating to an election campaign, electoral process, or a *City Official's* conduct in office.

§27.2970 Declaration of Accepting or Rejecting Expenditure Ceilings

[Option A]

At the time a *candidate* submits his or her nomination papers pursuant to section 27.0214, he or she shall also file a statement of acceptance or rejection of compliance with the voluntary *expenditure* ceilings set forth in section 27.2971. *Candidates* who choose to abide by the *expenditure* ceilings may then sign and file with the *City Clerk* the Voluntary Expenditure Ceilings and Public Funding Contract for eligibility for the matching funds program.

[Option B]

- (a) No earlier than the sixtieth calendar day prior to a *District* or *City-wide Primary Election*, nor later than the close of business on the fifty-third calendar day prior to a *District* or *City-wide Primary Election*, each *candidate* participating in that *election* shall file a statement of acceptance or rejection of compliance with the voluntary *expenditure* ceilings set forth in section 27.2971.
- (b) No earlier than the fifty-seven calendar day prior to a *Special Election*, nor later than the close of business on the fiftieth calendar day prior to a *Special Election*, each *candidate* participating in that *Special Election* shall file a statement of acceptance or rejection of compliance with the voluntary *expenditure* ceilings set forth in section 27.2971.
- (c) *Candidates* who choose to abide by the *expenditure* ceilings in accordance with subsections (a) and (b) may then sign and file with the *City Clerk* the Voluntary Expenditure Ceilings and Public Funding Contract for eligibility for the matching funds program.

§27.2971 Voluntary Expenditure Ceilings

It shall be unlawful for any candidate for *City* office who files a contract of acceptance of matching funds or for any *controlled committee* of such *candidate* to make *expenditures* in excess of the following amounts and subject to the following restrictions:

- (a) Except as otherwise provided in this division, it shall be unlawful for a *candidate* for *City* office, other than for the office of the Mayor or office of the City Attorney, to make *expenditures* of more than \$75,000 per *election* to be eligible for matching funds.
- (b) Except as otherwise provided in this division, it shall be unlawful for a *candidate* for the office of the Mayor or for the office of the City Attorney to make *expenditures* of more than \$200,000 per *election* to be eligible for matching funds.

§27.2972 Time Periods for Expenditures

For purposes of the *expenditure* ceilings, *expenditures* made at any time up to the date of a *District Primary Election*, *City-wide Primary Election*, or *Special Election* shall be considered *expenditures* for that *election*, and *expenditures* made after the date of a *District Primary Election*, *City-wide Primary Election*, or *Special Election* shall be considered *expenditures* for a *District General Election*, *City-wide General Election*, or *Special Run-off Election*, respectively. However, in the event that *payments* are made but the goods or services are not used during the period purchased, the *payments* shall be considered *expenditures* for the time period in which the goods or services are used. *Payments* for goods or services used in both the primary and

general *elections*, or in both the *Special Election* and *Special Run-off Election*, shall be prorated.

§27.2973 Expenditure Ceilings Lifted

- (a) If a *candidate* declines to accept the voluntary *expenditure* ceiling and receives *contributions*, has cash on hand, or makes *expenditures* in excess of 100% of the recommended *expenditure* ceiling for that office, or if any other *committee* or *committees* make *independent expenditures* or *internal communications* in the aggregate of more than 75% of the applicable recommended *expenditure* ceiling for that office, the voluntary *expenditure* ceiling shall no longer be binding on any *candidate* running for the same office.
- (b) Any *candidate* running for that office who originally accepted the voluntary *expenditure* ceilings and qualified for matching funds set forth in Sections 27.2970, 27.2971, 27.2972 shall be permitted to continue receiving matching funds.

§27.2974 Election Campaign Fund

There is hereby established an account within a special revenue fund of the *City* to be known as the “Election Campaign Fund.”

§27.2975 Appropriation of Funds

The *City Council* shall appropriate to the Election Campaign Fund an amount sufficient to finance all *candidates* for *City* office participating in the matching fund program. The *City Clerk* shall provide a written estimate to the *City Council* of the amount necessary to be appropriated each fiscal year to provide the matching funds prescribed for all eligible *candidates* when cumulated over an *election* cycle, and the Council shall appropriate said funds each fiscal year. Such funds shall carry over from year-to-year in the Election Campaign Fund. The total amount of funds in the Election Campaign Fund, however, shall not exceed \$_____ or .0_% of the *City* budget, whichever is less, in any two-year period.

§27.2976 Eligibility for Matching Funds

In order for a *candidate* for *City* office to be eligible for public matching funds, the *candidate* must satisfy all of the following requirements:

- (a) Make every reasonable effort to comply with state and *City* election laws.
- (b) Sign and file with the *City Clerk* a Voluntary Expenditure Ceiling and Public Funding Contract agreeing to abide by the voluntary spending limits as a condition for participating in the matching fund program.
- (c) Meet all ballot qualification requirements.

- (d) Raise at least \$10,000 in *contributions* from sources other than the *candidate's* personal funds or the funds of his or her *extended family* if seeking *City Council* district office, or raise at least \$15,000 from sources other than the *candidate's* personal funds or the funds of his or her *extended family* if seeking the office of the Mayor or the office of the City Attorney.
- (e) Be running in a contested election against at least one opponent who has qualified for matching funds or who has raised or spent at least \$10,000 in non-public campaign funds for *City Council* district office, or \$15,000 in non-public campaign funds for *candidates* for office of the Mayor or office of the City Attorney.
- (f) Limit *contributions* from the *candidate's* personal funds or the funds of his or her immediate family to no more than 5% of the voluntary spending limit. If the voluntary expenditure ceilings for the office being sought are lifted under Section 27.2973 of this Division, this provision shall not apply.
- (g) Raise the threshold qualification *contributions* specified in Sections 27.2977 or 27.2978.

§27.2977 Threshold Qualification Contributions for City Council District Office Candidates

Public matching funds shall be allocated to qualified *City candidates*, other than *candidates* for the office of the Mayor or the office of the City Attorney, at any time from the beginning of the candidacy period immediately upon satisfying the qualification contribution threshold for each disbursement as determined by the *City Clerk*. The threshold qualification contributions for disbursement of matching funds shall be according to the following formula:

- (a) A *candidate* or *candidate's controlled committee*, certified as eligible to receive public matching funds, may submit a request for public matching funds to the *City Clerk* each time a threshold of \$3,000 or more in matchable private contributions is reached.
- (b) A *candidate* or *candidate's controlled committee*, certified as eligible to receive public matching funds, may submit a request for public matching funds of \$1,000 or more until 10 calendar days prior to the *election*.
- (c) The *City Clerk* shall have 5 business days to approve the request and disburse the public funds to the *candidate* or *candidate's controlled committee*.
- (d) The request for public matching funds shall be made on a form determined by the *City Clerk*, but shall include copies of each check, money order or other written legal tender eligible to be matched by public funds.

- (e) Matchable private *contributions* shall include only *contributions* from individuals, other than a *contribution* from the *candidate* or his or her immediate family, totaling \$150 or less per individual contributor to a *candidate* for *City Council* district office, per election. The public matchable portion shall be allocated at a ratio of two dollars of public funds for every dollar of matchable private *contribution*.
- (f) For purposes of this section, a loan, pledge or nonmonetary *contribution* shall not be considered a matchable private contribution.
- (g) No more than \$40,000 in public matching funds shall be disbursed to each eligible candidate per election.

§27.2978 Threshold Qualification Contributions for Mayoral and City Attorney Candidates

Public matching funds shall be allocated to qualified Mayoral or City Attorney *candidates* at any time from the beginning of the candidacy period for each election immediately upon satisfying the qualification *contribution* threshold for each disbursement as determined by the *City Clerk*. The threshold qualification *contributions* for disbursement of matching funds shall be according to the following formula:

- (a) A *candidate* or *candidate's controlled committee*, certified as eligible to receive public matching funds, may submit a request for public matching funds to the *City Clerk* each time a threshold of \$10,000 or more in matchable private *contributions* is reached.
- (b) A *candidate* or *candidate's controlled committee*, certified as eligible to receive public matching funds, may submit a request for public matching funds of \$1,000 or more until 10 calendar days prior to the election.
- (c) The *City Clerk* shall have 5 business days to approve the request and disburse the public funds to the *candidate* or *candidate's controlled committee*.
- (d) The request for public matching funds shall be made on a form determined by the *City Clerk*, but shall include copies of each check, money order or other written legal tender eligible to be matched by public funds.
- (e) Matchable private *contributions* shall include only *contributions* from individuals, other than a *contribution* from the *candidate* or his or her immediate family, totaling \$250 or less per individual contributor to a candidate for office of the Mayor or City Attorney per *election*. The public matchable portion shall be allocated at a ratio of two dollars of public funds for every dollar of matchable private *contribution*.

- (f) For purposes of this section, a loan, pledge or nonmonetary *contribution* shall not be considered a matchable private *contribution*.
- (g) No more than \$100,000 in public matching funds shall be disbursed to each eligible candidate per election.

§27.2979 Insufficient Public Funds

If there are insufficient public matching funds available for all eligible *candidates*, whatever funds are available in the Election Campaign Fund shall be distributed on a pro rata basis to qualified *candidates* as determined by the *City Clerk*.

§27.2980 Use of Public Matching Funds

- (a) Public matching funds shall be used exclusively for legitimate campaign expenses to promote the candidacy of the recipient *candidate*.
- (b) All surplus public matching funds, or matching funds used in violation of the requirements of this Division, shall be returned or reimbursed to the *City's* Election Campaign Fund.

§27.2981 Cost of Living Adjustment

Beginning in 2005, the *City Clerk* shall adjust the *expenditure* ceilings every four years according to the cost of living in the immediate San Diego area, as shown in the Consumer Price Index for all items in the area. The adjustment shall be rounded to the nearest thousand.

§27.2985 Duties of the City Clerk

In addition to other duties required of him under the terms of this division, the *City Clerk* shall:

- (a) prominently designate on the voter information pamphlet those *candidates* who have voluntarily agreed to the *expenditure* ceilings and signed the Voluntary Spending Limit and Public Funding Contract.
- (b) issue a press release in a timely fashion identifying those *candidates* who have, and have not, signed the Voluntary Spending Limit and Public Funding Contract.
- (c) Supply appropriate forms and manuals prescribed by the state Fair Political Practices Commission. These forms and manuals shall be furnished to all *candidates* and *committees*, and to all other *persons* required to report.
- (d) Determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of state law.

- (e) Report, at the *City Clerk's* discretion, apparent violations of this division and applicable state law to the *Enforcement Authority*.
- (h) Compile and maintain a current list of all statements or parts of statements filed with the office pertaining to each *candidate* and each *measure*.
- (i) Cooperate with the *Enforcement Authority* in the performance of the duties of the *Enforcement Authority* as prescribed in this division and applicable state law.

§27.2990 Enforcement Authority — Duties, Complaints, Legal Action, Investigatory Powers

- (a) Any *person* who believes that a violation of any portion of this Division has occurred may file a complaint with the *Enforcement Authority*.
- (b) The *Enforcement Authority* shall have such investigative powers as are necessary for the performance of the duties prescribed in this Division. The *Enforcement Authority* may demand and shall be furnished records of campaign *contributions* and expenses at any time.
- (c) The *Enforcement Authority* may elect to enforce the provisions of this Division administratively pursuant to Chapter 2, Article 6, Division 4, or may otherwise recommend or refer enforcement actions to the City Attorney or other law enforcement agency with jurisdiction.

§27.2991 Penalties

- (a) Any *person* who violates any part of this division, or who counsels, aids, abets, advises, or participates with another to commit any such violation, is guilty of a misdemeanor and is subject to the penalties set forth in chapter 1 of this code, or if the matter is pursued by the *Enforcement Authority* as an administratively, the any *person* found in violation is subject to the administrative penalties provided for in chapter 2, article 6, division 4.
- (b) In addition to being subject to the penalties set forth in chapter 1 of this code, any *person* found guilty of violating Sections 27.2935 or 27.2950, or both, shall be required to forfeit the amount received in violation of this division and pay over these funds to the *City Treasurer* for deposit in the *City's* General Fund.
- (c) If, after an *election*, a *candidate* or office holder is convicted in a court of law of a violation of any provision of this division, the *election* to office of such *candidate* or officeholder shall be void and the office shall become vacant immediately upon the later of the following two dates:
 - (1) The date of the *candidate* or officeholder's conviction; or

- (2) The date the *candidate* would have taken office, if the *candidate* is not an incumbent. In the event of a vacancy resulting from application of Section 27.2990(c), the vacancy shall be filled in accordance with the procedures set forth in the *City* Charter for the filling of vacant *City* offices.
- (d) If a *candidate* is convicted in a court of law of violating any provision of this Division any time prior to the *election*, the candidacy shall be terminated immediately and the *person* shall be no longer eligible for *election*.
- (e) Any *person* convicted in a court of law of a violation of any provision of this division shall be ineligible to hold a *City elective office* for a period of five years from and after the date of the conviction.
- (f) Any limitation of time prescribed by law within which prosecution for a violation of any part of this division must be commenced shall not begin to run until the *City's* discovery of the violation.